
SENATE BILL 5970

State of Washington 55th Legislature 1997 Regular Session

By Senators Schow, Horn, Bauer, Heavey, Franklin and Anderson

Read first time 02/24/97. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to expanding days of sale while not changing days
2 of use of common fireworks and clarifying other provisions of the
3 existing state fireworks law; amending RCW 70.77.160, 70.77.170,
4 70.77.180, 70.77.236, 70.77.255, 70.77.270, 70.77.325, 70.77.343,
5 70.77.345, 70.77.355, 70.77.375, 70.77.395, 70.77.420, 70.77.425,
6 70.77.435, 70.77.440, 70.77.450, and 70.77.555; reenacting and amending
7 RCW 70.77.250; reenacting RCW 70.77.315 and 70.77.455; adding a new
8 section to chapter 70.77 RCW; repealing 1995 c 369 s 56; prescribing
9 penalties; and declaring an emergency.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

11 **Sec. 1.** RCW 70.77.160 and 1982 c 230 s 6 are each amended to read
12 as follows:

13 "Public display of fireworks" means an entertainment feature where
14 the public is admitted or (~~permitted~~) allowed to view the display or
15 discharge of special fireworks.

16 **Sec. 2.** RCW 70.77.170 and 1995 c 369 s 44 are each amended to read
17 as follows:

1 "License" means a (~~nontransferable~~) transferable formal
2 authorization which the chief of the Washington state patrol and the
3 director of fire protection are (~~permitted~~) authorized to issue under
4 this chapter to engage in the act specifically designated therein.

5 **Sec. 3.** RCW 70.77.180 and 1995 c 61 s 9 are each amended to read
6 as follows:

7 "Permit" means the official (~~permission~~) transferable
8 authorization granted by a (~~local public agency~~) city or county for
9 the purpose of establishing and maintaining a place within the
10 jurisdiction of the (~~local agency~~) city or county where fireworks are
11 manufactured, constructed, produced, packaged, stored, sold, or
12 exchanged and the official (~~permission~~) authorization granted by a
13 (~~local agency~~) city or county for a public display of fireworks.

14 **Sec. 4.** RCW 70.77.236 and 1995 c 61 s 6 are each amended to read
15 as follows:

16 (1) "New fireworks item" means any fireworks initially classified
17 or reclassified as special or common fireworks by the United States
18 bureau of explosives or in the regulations of the United States
19 department of transportation after April 17, 1995.

20 (2) The (~~director of community, trade, and economic development~~)
21 chief of the Washington state patrol through the director of fire
22 protection shall classify any new fireworks item in the same manner as
23 the item is classified by the United States bureau of explosives or in
24 the regulations of the United States department of transportation,
25 unless the (~~director of community, trade, and economic development~~)
26 chief of the Washington state patrol through the director of fire
27 protection determines, stating reasonable grounds, that the item should
28 not be so classified.

29 **Sec. 5.** RCW 70.77.250 and 1995 c 369 s 45 and 1995 c 61 s 12 are
30 each reenacted and amended to read as follows:

31 (1) The chief of the Washington state patrol, through the director
32 of fire protection, shall enforce and administer this chapter.

33 (2) The chief of the Washington state patrol, through the director
34 of fire protection, shall appoint such deputies and employees as may be
35 necessary and required to carry out the provisions of this chapter.

1 (3) The chief of the Washington state patrol, through the director
2 of fire protection, (~~may prescribe such~~) shall adopt those rules
3 relating to fireworks as (~~may be~~) are necessary for the
4 implementation of this chapter.

5 (4) The chief of the Washington state patrol, through the director
6 of fire protection, shall (~~prescribe such~~) adopt those rules as (~~may~~
7 ~~be~~) are necessary to ensure state-wide minimum standards for the
8 enforcement of this chapter. Counties, cities, and towns shall comply
9 with (~~such~~) these state rules. Any local rules adopted by local
10 authorities that are more restrictive than state law shall have an
11 effective date no sooner than one year after their adoption.

12 (5) The chief of the Washington state patrol, through the director
13 of fire protection, may exercise the necessary police powers to enforce
14 the criminal provisions of this chapter. This grant of police powers
15 does not prevent any other state agency or local government agency
16 having general law enforcement powers from enforcing this chapter
17 within the jurisdiction of the agency or local government.

18 **Sec. 6.** RCW 70.77.255 and 1995 c 61 s 13 are each amended to read
19 as follows:

20 (1) Except as otherwise provided in this chapter, no person,
21 without (~~an~~) appropriate state (~~license or permit~~) licenses and
22 city or county permits as required by this chapter may:

23 (a) Manufacture, import, possess, or sell any fireworks at
24 wholesale or retail for any use;

25 (b) Make a public display of fireworks; (~~or~~)

26 (c) Transport fireworks, except as a public carrier delivering to
27 a licensee; or

28 (d) Knowingly manufacture, import, transport, store, sell, or
29 possess with intent to sell, as fireworks, explosives, as defined under
30 RCW 70.74.010, that are not fireworks, as defined under this chapter.

31 (2) Except as authorized by a license and permit under subsection
32 (1)(b) of this section or as provided in RCW 70.77.311, no person may
33 discharge special fireworks at any place.

34 (3) No person less than eighteen years of age may apply for or
35 receive a license or permit under this chapter.

36 (4) No license or permit is required for the possession or use of
37 common fireworks lawfully purchased at retail.

1 NEW SECTION. **Sec. 7.** A new section is added to chapter 70.77 RCW
2 to read as follows:

3 (1) A violation of RCW 70.77.255(1)(d) is a gross misdemeanor
4 punishable by not less than thirty days in jail and a fine of not less
5 than five thousand dollars.

6 (2) The minimum sentences required under subsection (1) of this
7 section may not be suspended or deferred.

8 **Sec. 8.** RCW 70.77.270 and 1995 c 61 s 14 are each amended to read
9 as follows:

10 (1) The governing body of a city or county, or a designee, shall
11 grant an application for a permit under RCW 70.77.260(1) if the
12 application meets the standards under this chapter, and the applicable
13 ordinances of the city or county. The permit shall be granted by June
14 10, or no less than thirty days after receipt of an application
15 whichever date occurs first, for sales commencing on June 28 and on
16 December 27; or by December 10, or no less than thirty days after
17 receipt of an application whichever date occurs first, for sales
18 commencing only on December 27.

19 (2) The (~~director of community, trade, and economic development~~)
20 chief of the Washington state patrol through the director of fire
21 protection shall prescribe uniform, state-wide standards for retail
22 fireworks stands and all matters related to the retail sale of
23 fireworks. All cities and counties which allow retail fireworks sales
24 shall comply with these standards.

25 (3) No retail fireworks permit may be issued to any applicant
26 unless the retail fireworks stand is covered by a liability insurance
27 policy with coverage of not less than fifty thousand dollars and five
28 hundred thousand dollars for bodily injury liability for each person
29 and occurrence, respectively, and not less than fifty thousand dollars
30 for property damage liability for each occurrence, unless such
31 insurance is not readily available from at least three approved
32 insurance companies. If insurance in this amount is not offered, each
33 fireworks permit shall be covered by a liability insurance policy in
34 the maximum amount offered by at least three different approved
35 insurance companies.

36 No wholesaler may knowingly sell or supply fireworks to any retail
37 fireworks stand unless the wholesaler determines that the retail

1 fireworks stand is covered by liability insurance in the same amount as
2 provided in this subsection.

3 **Sec. 9.** RCW 70.77.315 and 1995 c 61 s 18 and 1995 c 369 s 47 are
4 each reenacted to read as follows:

5 Any person who desires to engage in the manufacture, importation,
6 sale, or use of fireworks, except use as provided in RCW 70.77.255(4)
7 and 70.77.311, shall make a written application to the chief of the
8 Washington state patrol, through the director of fire protection, on
9 forms provided by him or her. Such application shall be accompanied by
10 the annual license fee as prescribed in this chapter.

11 **Sec. 10.** RCW 70.77.325 and 1994 c 133 s 8 are each amended to read
12 as follows:

13 (1) An application for a license shall be made annually by every
14 person holding an existing license who wishes to continue the activity
15 requiring the license during an additional ~~((calendar))~~ year. The
16 application shall be accompanied by the annual license fees as
17 prescribed in RCW 70.77.343 and 70.77.340.

18 (2) A person applying for an annual license as a retailer under
19 this chapter shall file an application ~~((by June 10 of the current
20 year))~~ no later than May 1 for annual sales commencing on June 28 and
21 on December 27, or no later than November 1 for sales commencing only
22 on December 27. The ~~((director of community, trade, and economic
23 development))~~ chief of the Washington state patrol, through the
24 director of fire protection, shall grant or deny the license within
25 fifteen days of receipt of the application.

26 (3) A person applying for an annual license as a manufacturer,
27 importer, or wholesaler under this chapter shall file an application by
28 January 31 of the current year. The ~~((director of community, trade,
29 and economic development))~~ chief of the Washington state patrol,
30 through the director of fire protection, shall grant or deny the
31 license within ninety days of receipt of the application.

32 **Sec. 11.** RCW 70.77.343 and 1995 c 61 s 19 are each amended to read
33 as follows:

34 (1) License fees, in addition to the fees in RCW 70.77.340, shall
35 be charged as follows:

1	Manufacturer	\$	1,500.00
2	Importer		900.00
3	Wholesaler		1,000.00
4	Retailer (for each separate outlet)		30.00
5	Public display for special fireworks		40.00
6	Pyrotechnic operator for special fireworks		5.00

7 (2) All receipts from the license fees in this section shall be
8 placed in the fire services trust fund and at least seventy-five
9 percent of these receipts shall be used to fund a state-wide public
10 education campaign developed by the (~~department~~) chief of the
11 Washington state patrol and the licensed fireworks industry emphasizing
12 the safe and responsible use of legal fireworks and the remaining
13 receipts shall be used to fund state-wide enforcement efforts against
14 the sale and use of fireworks that are illegal under this chapter.

15 **Sec. 12.** RCW 70.77.345 and 1995 c 61 s 20 are each amended to read
16 as follows:

17 Every license and permit issued shall be for the (~~calendar year~~)
18 period from January 1st (~~to December 31st or for~~) of the year for
19 which the application is made through January 31 of the subsequent
20 year, or the remaining portion thereof (~~of the calendar year for which~~
21 ~~the license application is made~~)).

22 **Sec. 13.** RCW 70.77.355 and 1994 c 133 s 9 are each amended to read
23 as follows:

24 (1) Any adult person may secure a general license from the
25 (~~director of community, trade, and economic development~~) chief of the
26 Washington state patrol, through the director of fire protection, for
27 the public display of fireworks within the state of Washington. A
28 general license is subject to the provisions of this chapter relative
29 to the securing of local permits for the public display of fireworks in
30 any city or county, except that in lieu of filing the bond or
31 certificate of public liability insurance with the appropriate local
32 official under RCW 70.77.260 as required in RCW 70.77.285, the same
33 bond or certificate shall be filed with the (~~director of community,~~
34 ~~trade, and economic development~~) chief of the Washington state patrol,
35 through the director of fire protection. The bond or certificate of
36 insurance for a general license in addition shall provide that: (a)
37 The insurer will not cancel the insured's coverage without fifteen days

1 prior written notice to the (~~director of community, trade, and~~
2 ~~economic development~~) chief of the Washington state patrol, through
3 the director of fire protection; (b) the duly licensed pyrotechnic
4 operator required by law to supervise and discharge the public display,
5 acting either as an employee of the insured or as an independent
6 contractor and the state of Washington, its officers, agents,
7 employees, and servants are included as additional insureds, but only
8 insofar as any operations under contract are concerned; and (c) the
9 state is not responsible for any premium or assessments on the policy.

10 (2) The (~~director of community, trade, and economic development~~)
11 chief of the Washington state patrol, through the director of fire
12 protection, may issue such general licenses. The holder of a general
13 license shall file a certificate from the (~~director of community,~~
14 ~~trade, and economic development~~) chief of the Washington state patrol,
15 through the director of fire protection, evidencing the license with
16 any application for a local permit for the public display of fireworks
17 under RCW 70.77.260.

18 **Sec. 14.** RCW 70.77.375 and 1995 c 61 s 21 are each amended to read
19 as follows:

20 The chief of the Washington state patrol, through the director of
21 fire protection, upon reasonable opportunity to be heard, may revoke
22 any license issued pursuant to this chapter, if he or she finds that:

23 (1) The licensee has violated any provisions of this chapter or any
24 rule (~~or regulations~~) made by the chief of the Washington state
25 patrol, through the director of fire protection, under and with the
26 authority of this chapter;

27 (2) The licensee has created or caused a fire nuisance;

28 (3) Any licensee has failed or refused to file any required
29 reports; or

30 (4) Any fact or condition exists which, if it had existed at the
31 time of the original application for such license, reasonably would
32 have warranted the chief of the Washington state patrol, through the
33 director of fire protection, in refusing originally to issue such
34 license.

35 **Sec. 15.** RCW 70.77.395 and 1995 c 61 s 22 are each amended to read
36 as follows:

1 (1) It is legal to sell(~~(,)~~) and purchase(~~(, use, and discharge)~~)
2 common fireworks within this state from (~~(twelve)~~) nine o'clock
3 (~~(noon)~~) a.m. on the twenty-eighth of June to twelve o'clock noon on
4 the sixth of July of each year, from nine o'clock a.m. on the twenty-
5 seventh of December to eleven o'clock p.m. on the thirty-first of
6 December of each year and as provided in RCW 70.77.311. (~~(However,~~
7 ~~no)~~)

8 (2) Common fireworks may be (~~(sold)~~) used or discharged each day
9 between the hours of nine o'clock a.m. and eleven o'clock p.m. (~~(and~~
10 ~~nine o'clock a.m.)~~) on the twenty-eighth of June to the sixth of July,
11 (~~(except)~~) and on July 4th (~~(from)~~) between the hours of nine o'clock
12 a.m. (~~(through)~~) and twelve o'clock midnight, and (~~(except)~~) from six
13 o'clock p.m. on December 31st until one o'clock a.m. on January 1st of
14 the subsequent year and as provided in RCW 70.77.311: PROVIDED, That
15 a city or county may prohibit the sale or discharge of common fireworks
16 on December 31, 1995, by enacting an ordinance prohibiting such sale or
17 discharge within sixty days of April 17, 1995.

18 **Sec. 16.** RCW 70.77.420 and 1984 c 249 s 26 are each amended to
19 read as follows:

20 (1) It is unlawful for any person to store fireworks of any class
21 without a permit for such storage from the (~~(local fire official in the~~
22 ~~jurisdiction)~~) city or county in which the storage is to be made. A
23 person proposing to store fireworks shall apply in writing to a (~~(local~~
24 ~~fire official)~~) city or county at least ten days prior to the date of
25 the proposed storage. The (~~(official)~~) city or county receiving the
26 application for a storage permit shall investigate whether the
27 character and location of the storage as proposed would constitute a
28 hazard to property or be dangerous to any person. Based on the
29 investigation, the (~~(official)~~) city or county may grant or deny the
30 application. The (~~(official)~~) city or county may place reasonable
31 conditions on any permit granted.

32 (2) For the purposes of this section the temporary storing or
33 keeping of common fireworks when in conjunction with a valid retail
34 sales license and permit shall comply with RCW 70.77.425 and the
35 standards adopted under RCW 70.77.270(2) and not this section.

36 **Sec. 17.** RCW 70.77.425 and 1984 c 249 s 27 are each amended to
37 read as follows:

1 It is unlawful for any person to store (~~unsold~~) stocks of
2 fireworks remaining unsold after the lawful period of sale as provided
3 in the person's permit except in such places of storage as the (~~local~~
4 ~~fire official~~) city or county issuing the permit approves. Unsold
5 stocks of common fireworks remaining after the authorized retail sales
6 period from (~~twelve~~) nine o'clock (~~noon~~) a.m. on June 28th to
7 twelve o'clock noon on July 6th shall be returned on or before July
8 31st of the same year, or remaining after the authorized retail sales
9 period from nine o'clock a.m. on December 27th to eleven o'clock p.m.
10 on December 31st shall be returned on or before January 10th of the
11 subsequent year to the approved storage facilities of a licensed
12 fireworks wholesaler, to a magazine or storage place approved by a
13 local fire official.

14 **Sec. 18.** RCW 70.77.435 and 1995 c 61 s 23 are each amended to read
15 as follows:

16 Any fireworks which are illegally sold, offered for sale, used,
17 discharged, possessed or transported in violation of the provisions of
18 this chapter or the rules or regulations of the (~~director of~~
19 ~~community, trade, and economic development~~) chief of the Washington
20 state patrol, through the director of fire protection, shall be subject
21 to seizure by the (~~director of community, trade, and economic~~
22 ~~development~~) chief of the Washington state patrol, through the
23 director of fire protection, or his or her deputy, or by state agencies
24 or local governments having general law enforcement authority. Any
25 fireworks seized by legal process anywhere in the state may be disposed
26 of by the (~~director of community, trade, and economic development~~)
27 chief of the Washington state patrol, through the director of fire
28 protection, or the agency conducting the seizure, by summary
29 destruction at any time subsequent to thirty days from such seizure or
30 ten days from the final termination of proceedings under the provisions
31 of RCW 70.77.440, whichever is later.

32 **Sec. 19.** RCW 70.77.440 and 1995 c 61 s 24 are each amended to read
33 as follows:

34 (1) In the event of seizure under RCW 70.77.435, proceedings for
35 forfeiture shall be deemed commenced by the seizure. The (~~director of~~
36 ~~community, trade, and economic development or deputy director of~~
37 ~~community, trade, and economic development~~) chief of the Washington

1 state patrol or a designee, through the director of fire protection or
2 the agency conducting the seizure, under whose authority the seizure
3 was made shall cause notice to be served within fifteen days following
4 the seizure on the owner of the fireworks seized and the person in
5 charge thereof and any person having any known right or interest
6 therein, of the seizure and intended forfeiture of the seized property.
7 The notice may be served by any method authorized by law or court rule
8 including but not limited to service by certified mail with return
9 receipt requested. Service by mail shall be deemed complete upon
10 mailing within the fifteen-day period following the seizure.

11 (2) If no person notifies the (~~director of community, trade, and~~
12 ~~economic development~~) chief of the Washington state patrol, through
13 the director of fire protection or the agency conducting the seizure,
14 in writing of the person's claim of lawful ownership or right to lawful
15 possession of seized fireworks within thirty days of the seizure, the
16 seized fireworks shall be deemed forfeited.

17 (3) If any person notifies the (~~director of community, trade, and~~
18 ~~economic development~~) chief of the Washington state patrol, through
19 the director of fire protection or the agency conducting the seizure,
20 in writing of the person's claim of lawful ownership or possession of
21 the fireworks within thirty days of the seizure, the person or persons
22 shall be afforded a reasonable opportunity to be heard as to the claim
23 or right. The hearing shall be before an administrative law judge
24 appointed under chapter 34.12 RCW, except that any person asserting a
25 claim or right may remove the matter to a court of competent
26 jurisdiction if the aggregate value of the seized fireworks is more
27 than five hundred dollars. The hearing before an administrative law
28 judge and any appeal therefrom shall be under Title 34 RCW. In a court
29 hearing between two or more claimants to the article or articles
30 involved, the prevailing party shall be entitled to a judgment for
31 costs and reasonable attorneys' fees. The burden of producing evidence
32 shall be upon the person claiming to have the lawful right to
33 possession of the seized fireworks. The (~~director of community,~~
34 ~~trade, and economic development~~) chief of the Washington state patrol,
35 through the director of fire protection or the agency conducting the
36 seizure, shall promptly return the fireworks to the claimant upon a
37 determination by the administrative law judge or court that the
38 claimant is lawfully entitled to possession of the fireworks.

1 (4) When fireworks are forfeited under this chapter the ((~~director~~
2 ~~of community, trade, and economic development~~)) chief of the Washington
3 state patrol, through the director of fire protection or the agency
4 conducting the seizure, may:

5 (a) Dispose of the fireworks by summary destruction; or

6 (b) Sell the forfeited fireworks and chemicals used to make
7 fireworks, that are legal for use and possession under this chapter, to
8 wholesalers or manufacturers, authorized to possess and use such
9 fireworks or chemicals under a license issued by the ((~~director of~~
10 ~~community, trade, and economic development~~)) chief of the Washington
11 state patrol, through the director of fire protection. Sale shall be
12 by public auction after publishing a notice of the date, place, and
13 time of the auction in a newspaper of general circulation in the county
14 in which the auction is to be held, at least three days before the date
15 of the auction. The proceeds of the sale of the seized fireworks under
16 this section may be retained by the agency conducting the seizure and
17 used to offset the costs of seizure and/or storage costs of the seized
18 fireworks. The remaining proceeds, if any, shall be deposited in the
19 fire services trust fund and shall be used for the same purposes and in
20 the same percentages as specified in RCW 70.77.343.

21 **Sec. 20.** RCW 70.77.450 and 1994 c 133 s 13 are each amended to
22 read as follows:

23 The ((~~director of community, trade, and economic development~~))
24 chief of the Washington state patrol, through the director of fire
25 protection, may make an examination of the books and records of any
26 licensee, or other person relative to fireworks, and may visit and
27 inspect the premises of any licensee he may deem at any time necessary
28 for the purpose of enforcing the provisions of this chapter. The
29 licensee, owner, lessee, manager, or operator of any such building or
30 premises shall permit the ((~~director of community, trade, and economic~~
31 ~~development~~)) chief of the Washington state patrol, through the
32 director of fire protection, his or her deputies or salaried
33 assistants, the local fire official, and their authorized
34 representatives to enter and inspect the premises at the time and for
35 the purpose stated in this section.

36 **Sec. 21.** RCW 70.77.455 and 1995 c 61 s 25 and 1995 c 369 s 54 are
37 each reenacted to read as follows:

1 (1) All licensees shall maintain and make available to the chief of
2 the Washington state patrol, through the director of fire protection,
3 full and complete records showing all production, imports, exports,
4 purchases, and sales of fireworks items by class.

5 (2) All records obtained and all reports produced, as required by
6 this chapter, are not subject to disclosure through the public
7 disclosure act under chapter 42.17 RCW.

8 **Sec. 22.** RCW 70.77.555 and 1995 c 61 s 26 are each amended to read
9 as follows:

10 (1) A (~~local public~~) city or county agency may provide by
11 ordinance for a fee for retail sales in an amount sufficient to cover
12 all legitimate costs for all needed permits and local licenses from
13 application to and through processing, issuance, and inspection, but in
14 no case to exceed a total of one hundred dollars for any one year for
15 initial permitting and a maximum of ten dollars for any one year for
16 any change in permit holder or location of the retail fireworks stand.

17 Even though business, environmental impact, inspection, and all
18 other required costs, fees, local licenses, and permits are not
19 directly related to fireworks permits, fees, costs, and local licenses
20 on their face; when these fees, costs, local licenses, and permits are
21 necessary to the use and operation of the fireworks permits and local
22 licenses such as, but not limited to, business, environmental impact,
23 and inspection; they are included as part and parcel of the annual
24 maximum fees, under subsection (1) of this section, that cover costs
25 for the fireworks permits and local licenses.

26 (2) A city or county may provide by ordinance for a fee for public
27 displays in an amount sufficient to cover all legitimate costs for all
28 needed permits and local licenses from application to and through
29 processing, issuance, and inspection, but in no case to exceed a total
30 of three hundred dollars for any one year.

31 NEW SECTION. **Sec. 23.** 1995 c 369 s 56 is repealed.

32 NEW SECTION. **Sec. 24.** If any provision of this act or its
33 application to any person or circumstance is held invalid, the
34 remainder of the act or the application of the provision to other
35 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 25.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and takes effect
4 immediately.

--- END ---